



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2017 Biennium

<b>Bill #</b>	HB0333	<b>Title:</b>	Generally revise laws related to publicly operated cameras
<b>Primary Sponsor:</b>	Schwaderer, Nicholas	<b>Status:</b>	As Amended in House Committee

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input type="checkbox"/> Needs to be included in HB 2  | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts | <input type="checkbox"/> Dedicated Revenue Form Attached |

### **FISCAL SUMMARY**

	<u>FY 2016 Difference</u>	<u>FY 2017 Difference</u>	<u>FY 2018 Difference</u>	<u>FY 2019 Difference</u>
<b>Expenditures:</b>				
General Fund		----- Cannot Be Determined -----		
State Special Revenue		----- Cannot Be Determined -----		
Federal Special Revenue		----- Cannot Be Determined -----		
Other		----- Cannot Be Determined -----		
<b>Revenue:</b>				
General Fund		----- Cannot Be Determined -----		
State Special Revenue		----- Cannot Be Determined -----		
Federal Special Revenue		----- Cannot Be Determined -----		
Other		----- Cannot Be Determined -----		
<b>Net Impact-General Fund Balance:</b>	<u>                    </u>	<u>                    </u>	<u>                    </u>	<u>                    </u>

**Description of fiscal impact:** HB 333 would limit the use of images taken with cameras that are operated by or under contract with a state agency. A camera operator may not use any function of a camera to capture a person or activity covered by the First Amendment or a private business or residence. A state agency may not retain an image from a publicly operated camera for more than 30 days. Implementation of the bill would have a significant impact on the operations of state government agencies. While some agencies were able to quantify the impact of the bill, on a statewide basis the total impact cannot be determined but could have a magnitude of hundreds of millions of dollars.

## FISCAL ANALYSIS

### Assumptions:

1. Agencies would have fiscal impacts to implement notice requirements of Section 5 of the bill. The statewide fiscal impact of conducting the public notice and comment period cannot be determined.

### **Department of Natural Resources and Conservation (DNRC)**

2. Under the revised definition, the impacts to the Department of Natural Resources and Conservation (DNRC) are lessened. However, there are still undeterminable impacts to DNRC based upon its use of mounted surveillance cameras.
3. DNRC maintains cameras under the definition of "camera" HB 333 for the purposes described below.
  - a. Permanently mounted cameras are necessary for the safe operation of the Toston hydropower plant. Some of these uses may be required as a condition of the Federal Energy Regulatory Commission (FERC) license.
  - b. Mounted cameras are used to provide information to remote administrative offices in case of emergencies such as fire, flooding, or break-ins. This information can help protect the facilities and employees in an emergency.
4. Trail cameras are used to monitor wildlife usage of certain areas, river conditions, and activities by individuals on DNRC trust lands.

### **Department of Justice (DOJ)**

#### *Montana Highway Patrol (MHP)*

5. MHP assumes that 25% of the total footage would be reviewed annually. This is 12,480 hours of video.
6. MHP assumes that 1.00 FTE would review 2,080 hours of video. This would require MHP to hire 6.00 FTE to review this video footage.

#### *Division of Criminal Investigation (DCI)*

7. Currently, one outside vendor manages 50,000 cameras in the state for private businesses. For purposes of this fiscal note, it is assumed that the number of public cameras would be a similar amount. The Division of Criminal Investigation estimates a biennial audit of 50,000 cameras across the state.
8. DCI would be responsible for the review of camera operators for compliance. This would require DCI to hire 4.00 FTE including an auditor, computer applications engineer, administrative assistant, and a supervisor.
9. It is estimated that 900 program hours will be necessary to establish system requirements, design the public interface, build the interface, test, and deploy the system at estimated cost of \$99,000.
10. The impact to the department for the review of local government footage is unknown.
11. For the impact the department is able to estimate, the impact would be \$816,733 in FY 2016, \$633,040 in FY 2017, \$642,536 in FY 2018, and \$652,174 in FY 2019.

### **Department of Administration (DofA)**

#### *General Services Division*

12. The division would need to replace 32 existing pan, tilt, zoom cameras in the Capitol and on the Capitol Complex with fixed cameras to maintain the equivalent security level and allow for forensic analysis after an incident. The estimated costs for the cameras and related equipment would be \$209,300 in FY 2016.

### Effect on County or Other Local Revenues or Expenditures:

1. Local government agencies or programs that conduct business or provide services similar to those provided by state agencies would encounter similar situations and incur similar fiscal impact as state agencies. However, the fiscal impact to local governments cannot be determined.

**Technical Notes:**

1. Section 2 (4) indicates that a camera operator may not use a camera to record an activity in a private residence or business. “Activity” is not defined. It is unclear what would be considered an activity under this section.
2. HB 333 states: "A camera operator may not use a pan, tilt, or zoom function or any other function of a camera to magnify an image of a particular person or anything in the person's possession...". It is unclear if "possession" also includes property.
3. Section 5 of the bill requires public notification and comment be given prior to the installation of cameras. The bill does not specify the form in which the public notices are to be made, whether they be made in the form of a legal classified ad or other format. There is no guidance to the form and content of the notice, nor are the specifics as to the duration and frequency of publication.
4. Images captured by DNRC factor into many of public records maintained under current law for periods that exceed 30 days. The retention period of "no more than 30 days" in Section 3 conflicts with current state records retention requirements.
5. Section 2-3-212(3), MCA, allows for video recordings of meetings to act as the official meeting minutes. Many state agencies maintain some video recordings of meetings and would be unable to meet the requirements of current public inspection statute.

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*Sponsor's Initials*

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*Date*

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*Budget Director's Initials*

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*Date*